

07 APR 2006



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Emery L. Tracy
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Boulder, CO 80306

In re Application of	:	
AGARWAL, Pradeep K.	:	
Application No.: 10/528,370	:	DECISION ON
PCT No.: PCT/US03/29419	:	
Int. Filing Date: 17 September 2003	:	REQUEST
Priority Date: 18 September 2002	:	
Attorney's Docket No.: W002.PAT-22	:	UNDER 37 CFR 1.42
For: SYSTEM AND METHOD ... RECOVERY	:	
OF HYDROGEN	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the submission reveals an indication that inventor Agarwal is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 17 September 2003, applicants filed international application PCT/US03/29419, which claimed a priority date of 18 September 2002. The deadline for entry into the national stage in the United States was 18 March 2005.

On 18 March 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 November 2005, applicants submitted a declaration, that has been treated as a request under 37 CFR 1.42.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The Office does not have a record of such a change. The international application lists 7 inventors. However, the declaration lists only 6 inventors. Mr. Steven Fischer is not listed. As such, the declaration does not comply with 37 CFR 1.497(a)-(b).

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is executed by someone for deceased inventor Agarwal. The declaration does not state that the person executing the declaration for the deceased inventor is the deceased inventor's legal representative. The declaration must list the inventors and their citizenships and the legal representative

and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. As indicated, the declaration does not comply with 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

Additionally, the fourth named inventor on the international application is listed as "Jerry Hamman". On the declaration, he indicates that his name is "Hamann". If this is a typographical or transliteration error, it can be corrected by a statement from the applicant indicating which is the correct name. See MPEP 201.03.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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PCT Legal Administration

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PATENT COOPERATION TREATY

PCT

From the INTERNATIONAL BUREAU

NOTIFICATION OF THE RECORDING
OF A CHANGE(PCT Rule 92bis.1 and
Administrative Instructions, Section 422)

To:

TRACY, Emery, L.
P.O. Box 1518
Boulder, CO 80306
United States of America

Date of mailing (day/month/year)

02 June 2004 (02.06.2004)

Applicant's or agent's file reference

W002.PCT-11

International application No.

PCT/US2003/029419

IMPORTANT NOTIFICATION

International filing date (day/month/year)

17 September 2003 (17.09.2003)

1. The following indications appeared on record concerning:

☒

the applicant

☒

the inventor

☐

the agent

☐

the common representative

Name and Address

FISCHER, Steven, A.
404 North Aster Avenue
Broken Arrow, OK 74012
United States of America

State of Nationality

US

State of Residence

US

Telephone No.

Facsimile No.

Teleprinter No.

2. The International Bureau hereby notifies the applicant that the following change has been recorded concerning:

☒

the person

☐

the name

☐

the address

☐

the nationality

☐

the residence

Name and Address

State of Nationality

State of Residence

Telephone No.

Facsimile No.

Teleprinter No.

3. Further observations, if necessary:

The applicant and inventor identified in Box 1 should be deleted from the records.

4. A copy of this notification has been sent to:

☒

the receiving Office

☐

the International Searching Authority

☐

the International Preliminary Examining Authority

☒

the designated Offices concerned

☐

the elected Offices concerned

☒

other: FISHER, Steven, A.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

SUAREZ Javier (Fax 338-71-30)